



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 31] नई दिल्ली, बृहस्पतिवार, जुलाई 25, 2019/ श्रावण 3, 1941 (शक)  
No. 31] NEW DELHI, THURSDAY, JULY 25, 2019/SHRAVANA 3, 1941 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bills were introduced in Lok Sabha on 25th July, 2019:—

BILL NO. 187 OF 2019

*A Bill further to amend the Inter-State River Water Disputes Act, 1956.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Inter-State River Water Disputes (Amendment) Act, 2019. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

33 of 1956. 2. In the Inter-State River Water Disputes Act, 1956 (hereinafter referred to as the principal Act), in section 2,— Amendment of section 2.

(i) for clause (a), the following clauses shall be substituted, namely:—

‘(a) “Chairperson” means the Chairperson of the Inter-State River Water Disputes Tribunal referred to in section 4B;

(aa) “existing Tribunal” means a Water Disputes Tribunal constituted prior to the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2019;

(ab) “Member” includes a Judicial Member and Expert Member of the Tribunal;

(ac) “notification” means a notification published in the Official Gazette;

(ad) “prescribed” means prescribed by rules made under this Act;’

(ii) for clause (b), the following clauses shall be substituted, namely:—

‘(b) “Tribunal” means the Inter-State River Water Disputes Tribunal established under section 4;

(ba) “Vice-Chairperson” means the Vice-Chairperson of the Tribunal referred to in section 4B;’.

Substitution of new sections 4, 4A, 4B, 4C, 4D and 4E for section 4.

3. For section 4 of the principal Act, the following sections shall be substituted, namely:—

Establishment of Inter-State River Water Disputes Tribunal.

‘4. With effect from such date as the Central Government may, by notification, appoint, there shall be established a Tribunal, to be called the Inter-State River Water Disputes Tribunal, for the adjudication of water disputes:

Provided that on and from the date of establishment of the Tribunal, all existing Tribunals shall stand dissolved and the water disputes pending adjudication before such existing Tribunals shall stand transferred to the Tribunal:

Provided further that any person holding office as the Chairman or a member of the existing Tribunals, shall on the dissolution of the existing Tribunals, cease to hold office as such Chairman or member, as the case may be, from the date of such dissolution, but shall, subject to the provisions of this Act, be eligible for re-appointment:

Provided also that a dispute which has already been adjudicated and settled by an existing Tribunal prior to the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2019 shall not be re-opened.

Disputes Resolution Committee.

4A. (1) As and when any request under section 3 is received from any State Government in respect of any water dispute, the Central Government shall set up a Disputes Resolution Committee, for resolving the dispute amicably.

(2) The Disputes Resolution Committee shall consist of—

(a) a Chairperson, who is or has been an officer of the Central Government of the rank of the Secretary to the Government of India or equivalent having experience in water sector, to be nominated by the Central Government;

(b) such expert members, as may be considered necessary, who are persons of ability, integrity and standing and having special qualifications and professional experience of not less than fifteen years in water sector, agriculture or such other fields as the Central Government may consider necessary, to be nominated by the Central Government; and

(c) one member, each to represent the States which are party to the dispute, to be nominated by the State Government concerned from officers of that Government not below the rank of Joint Secretary to the Government of India.

(3) The Disputes Resolution Committee shall try to resolve a water dispute by negotiations within a period of one year which may be extended to a further period of six months and submit its report to the Central Government.

(4) The report submitted by the Disputes Resolution Committee shall contain details of—

- (a) the stand taken by each State which are party to the dispute during negotiation;
- (b) the views of members of the Committee on such stand; and
- (c) all relevant facts, information and data relating thereto.

(5) Any water dispute which cannot be settled by negotiations shall be referred by the Central Government, by notification, to the Tribunal for its adjudication within a period of three months from the date of receipt of the report under sub-section (3).

4B. (1) Subject to the provisions of section 12, the Tribunal shall consist of a Chairperson, a Vice-Chairperson, and not more than three Judicial Members and three Expert Members to be appointed by the Central Government on the recommendation of the Selection Committee.

Composition  
of Tribunal.

(2) The Selection Committee referred to in sub-section (1) shall consist of—

- (a) the Prime Minister or any other Minister nominated by him—chairperson;
- (b) the Chief Justice of India or a Judge of the Supreme Court nominated by him—member;
- (c) the Minister in charge of the Ministry dealing with the law and justice—member; and
- (d) the Minister in charge of the Ministry of Jal Shakti—member.

(3) A person shall not be eligible for appointment—

- (a) as the Chairperson or Vice-Chairperson unless he is, or has been, a Judge of the Supreme Court or a Chief Justice of the High Court;
- (b) as the Judicial Member unless he is, or has been, a Judge of a High Court; and
- (c) as the Expert Member unless he is a person of ability, integrity and standing and having experience in water resources and has been an officer of the Central Government of the rank of Secretary to the Government of India or equivalent or is or has been a renowned international or national expert having experience of working in the field of international or inter-State river water disputes:

Provided that a person who is a sitting Judge of the Supreme Court or a Judge of a High Court shall be appointed in consultation with the Chief Justice of India.

(4) The Selection Committee shall recommend a person for appointment as Chairperson, Vice-Chairperson, Judicial Member or Expert Member in accordance with such procedure as may be prescribed.

(5) No appointment of the Chairperson or Vice-Chairperson or a Member of the Tribunal shall be invalid merely by reason of any vacancy or absence of member, or defect in the constitution, of the Selection Committee.

4C. (1) The Chairperson and Vice-Chairperson shall hold office for a period of five years or till the age of seventy years, whichever is earlier.

Term of  
office.

(2) The term of office of other Members of the Tribunal shall be co-terminus with the adjudication of the water dispute and they shall cease to hold office upon dissolution of the bench under sub-section (2) of section 12:

Provided that no Member shall hold office after he has attained the age of sixty-seven years.

Removal of  
Members of  
Tribunal.

4D. The Central Government may remove from office, the Chairperson or Vice-Chairperson or any Member, who—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that no Chairperson or Vice-Chairperson or Member shall be removed under clause (d) or clause (e) from office unless he has been informed of the charges against him and given an opportunity of being heard in respect of those charges:

Provided further that the Chairperson or Vice-Chairperson or Judicial Member who is a sitting Judge shall not be removed from office without consulting the Chief Justice of India.

Benches of  
Tribunal.

4E. (1) Subject to other provisions of this Act,—

(a) the jurisdiction of the Tribunal may be exercised by the Benches thereof;

(b) the Chairperson may constitute a Bench consisting of the Chairperson or Vice-Chairperson as the presiding officer, with one Judicial Member and one Expert Member:

Provided that a Member of a Bench may also be a Member of another Bench.

(2) The Benches of the Tribunal shall ordinarily sit at New Delhi or at such other places as the Chairperson may decide.’.

Amendment  
of section 5.

4. In section 5 of the principal Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) On receipt of a reference in respect of any water dispute from the Central Government, the Chairperson shall assign such dispute to a Bench of the Tribunal for its adjudication.

(2) The Bench of the Tribunal shall, before investigating the water dispute assigned to it under sub-section (1), take into consideration the report submitted by the Disputes Resolution Committee under sub-section (3) of section 4A on the water dispute or on any matter appearing to be connected with, or relevant to, the water dispute.

(2A) The Bench of the Tribunal shall investigate the water dispute assigned to it under sub-section (1) and forward to the Central Government its detailed report setting out the facts as found by it including on yield, efficiency in the use of water and such other matters as may be prescribed, and giving its decision on such dispute within a period of two years:

Provided that such report shall also provide for the distribution of water during distress situations arising from shortage in the availability of water in such manner as may be prescribed:

Provided further that if the report cannot be given within a period of two years for any unavoidable reasons, the Central Government may extend such period to a further period not exceeding one year.”;

(b) in sub-section (3),—

(i) for the words “on such reference, the Tribunal may”, the words “on such reference, the Bench of the Tribunal concerned may” shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

“Provided that the Central Government may extend the period of one year to a further period not exceeding six months.”.

5. For section 5A of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections 5A, 5B and 5C for section 5A.

“5A. (1) The Central Government may appoint two experts serving in the Central Water Engineering Service not below the rank of Chief Engineer as assessors for each water dispute to advise the Bench in the proceedings before it:

Appointment of assessors.

Provided that the assessor so appointed shall not be a domicile to any of the States which are party to the dispute.

(2) The term of the assessors appointed under sub-section (1) shall be co-terminus with the adjudication of the dispute and they shall cease to be assessors after the dispute is adjudicated and the final report is forwarded to the Central Government.

5B. The Central Government shall appoint an Administrative Officer, not below the rank of Joint Secretary to the Government of India, who shall be responsible for day-to-day administrative work of the Tribunal and to act as a nodal officer between the Central Government and the Tribunal.

Appointment of Administrative Officer.

5C. (1) Subject to the provisions of this Act, if for any reason, a vacancy (other than a temporary absence) occurs in the office of the Chairperson, Vice-Chairperson or any other Member of the Tribunal, such vacancy shall be filled in accordance with section 4B.

Filling of vacancies, temporary absence, etc.

(2) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Vice-Chairperson shall act as the Chairperson until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(3) When any Member of a Bench of the Tribunal is unable to discharge his functions owing to absence, illness or any other cause, the Chairperson may assign the work of such Member to any other Member of the Tribunal till such Member resumes his work.”.

6. For section 6 of the principal Act, the following section shall be substituted, namely:—

Substitution of section 6.

“6. The decision of the Bench of the Tribunal shall be final and binding on the parties to the dispute and shall have the same force as an order or decree of the Supreme Court.”.

Decision of Bench of Tribunal binding on parties.

7. In section 6A of the principal Act, in sub-section (1), for the word “may” occurring at both the places, the word “shall” shall be substituted.

Amendment of section 6A.

Substitution  
of section 9A.

**8.** For section 9A of the principal Act, the following section shall be substituted, namely:—

Maintenance  
of data bank  
and  
information.

“9A. (1) The Central Government shall, for the purposes of maintaining a data bank and information system at the national level for each river basin, appoint or authorise an agency which shall maintain data relating to water resources, land, agriculture and such other matter, containing such particulars and in such manner, as may be prescribed.

(2) As and when required by the Central Government, the State Government shall make available the data relating to any of the matters referred to in sub-section (1) to the Central Government or to the agency appointed or authorised under that sub-section.

(3) The Central Government or the agency referred to in sub-section (1) shall have powers to summon and verify any data, record or other relevant information received from the State Government.”.

Substitution of  
section 10.

**9.** For section 10 of the principal Act, the following section shall be substituted, namely:—

Terms and  
conditions of  
service of  
Members and  
assessors.

“10. The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson, Vice-Chairperson, other Members and assessors shall be such as may be prescribed.”.

Substitution  
of new  
sections 12  
and 12A for  
section 12.

**10.** For section 12 of the principal Act, the following sections shall be substituted, namely:—

Dissolution of  
Bench.

“12. (1) After any water dispute assigned to a Bench of the Tribunal is adjudicated and it submits its decision or report, the Central Government shall, on the recommendations of the Chairperson, dissolve that Bench within a period of three months.

(2) Upon dissolution of the Bench under sub-section (1), the Members of that Bench (excluding Chairperson and Vice-Chairperson) shall vacate their respective offices:

Provided that where a Member of a Bench is also a Member of another Bench, such Member shall continue as a Member of such other Bench.

Staff and  
assets of  
dissolved  
Bench.

12A. (1) Upon the dissolution of a Bench of the Tribunal under section 12, the staff of such dissolved Bench shall be,—

(i) made available to any other Bench, if so required; or

(ii) repatriated to their parent cadre

in such manner as may be prescribed.

(2) The assets and properties of the dissolved Bench shall be transferred to the Central Government or to the concerned State Government which provided such assets and properties.”.

Amendment  
of section 13.

**11.** In section 13 of the principal Act, in sub-section (2), for clauses (a) to (f), the following clauses shall be substituted, namely:—

“(a) the form and the manner in which a complaint as to any water dispute may be made by any State Government under section 3;

(b) the procedure for preparation of a list of candidates and making of recommendations for selection of Chairperson, Vice-Chairperson and Members of the Tribunal under sub-section (4) of section 4B;

(c) the other matters, and the manner of providing for distribution of water during distress situations arising from shortage in the availability of water, under sub-section (2A) of section 5;

(d) the other matters in respect of which the Tribunal may be vested with the powers of a civil court under clause (d) of sub-section (1) of section 9;

(e) the procedure to be followed by the Tribunal under sub-section (4) of section 9;

(f) the other matters in respect of which data is to be maintained, the particulars thereof, and the manner of maintaining such data under sub-section (1) of section 9A;

(g) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson, the Vice-Chairperson, other Members and assessors under section 10;

(h) the manner in which the staff of the dissolved Bench shall be dealt with under sub-section (1) of section 12A;

(i) any other matter which has to be, or may be, prescribed.”.

**12.** For section 14 of the principal Act, the following section shall be substituted, namely:—

Substitution of section 14.

“14. The Ravi and Beas Waters Tribunal constituted prior to the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2019 shall stand dissolved and the water disputes pending adjudication before it shall stand transferred to the Tribunal:

Matters relating to Ravi and Beas Waters Tribunal.

Provided that the concerned Bench shall proceed to deal with such dispute from the stage at which it was so transferred.”.

**13.** After section 14 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 15.

“15. (1) Where the States, which are parties to a dispute, reach a settlement during the period of adjudication of any dispute by the Tribunal, and such States submit a report in this behalf to the Central Government, the Central Government shall within a period of one month make a reference to the Chairperson of the Tribunal for ending the adjudication of the said dispute.

Settlement of dispute by parties during adjudication.

(2) The Chairperson shall, on receipt of the reference under sub-section (1), recommend to dissolve that Bench and the Central Government shall, on such recommendations, dissolve that Bench of the Tribunal within a period of three months.

(3) The settlement of dispute by parties under this section shall have the same status and effect as a decision of the Tribunal under section 6.”.

## STATEMENT OF OBJECTS AND REASONS

On account of increase in demand for water by the States, the inter-State river water disputes are on the rise. Though the Inter-State River Water Disputes Act, 1956 (33 of 1956) provides for a legal framework to address such disputes, it suffers from many drawbacks. Under the said Act, a separate Tribunal has to be established for each inter-State river water disputes. Only four out of nine Tribunals have made awards. Though the Ravi and Beas Water Disputes Tribunal has been in existence for over 33 years yet it has not been able to make any successful award till date. Further, there is no provision in the Act fixing time limit for adjudication by a Tribunal or for any upper age limit for the Chairman or a member of a Tribunal. There is no mechanism for continuation of work on occurrence of any vacancy in the office of the Chairman or a member of a Tribunal nor is there a time limit for publishing the report of the Tribunal. All these drawbacks are causing delay in the adjudication of water disputes.

2. The Inter-State River Water Disputes (Amendment) Bill, 2019 seeks to streamline the adjudication of inter-State river water disputes and make the present legal and institutional architecture robust. The Bill proposes to introduce a mechanism to resolve the water dispute amicably by negotiations through a Disputes Resolution Committee, to be established by the Central Government consisting of experts from relevant fields, before such dispute is referred to the Tribunal.

3. The proposed Bill further seeks to provide for a single standing Tribunal (with multiple Benches) instead of multiple Tribunals, which shall consist of a Chairperson, a Vice-Chairperson, and not more than six Members (three Judicial Members and three Expert Members). The term of office of the Chairperson and Vice-Chairperson shall be five years or till they attain the age of seventy years, whichever is earlier. The term of office of other Members of the Tribunal shall be co-terminus with the adjudication of the water disputes and no Member shall hold office after he has attained the age of sixty-seven years. It is also proposed that the assessors, who provide technical support to the Tribunal, shall be appointed from amongst experts serving in the Central Water Engineering Service not below the rank of Chief Engineer. The total time period for adjudication of a water dispute by the Tribunal has been fixed at a maximum of four and half years. The decision of the Bench of the Tribunal shall be final and binding on the States concerned, with no requirement of its publication in the Official Gazette. The proposed Bill also seeks to make provision for removal of Chairperson, Vice-Chairperson and other Members on the grounds specified in the proposed provision. It also seeks to provide for out of court settlement of disputes by the party States during the adjudication process in the Tribunal.

4. The proposed Bill also seeks to provide for transparent data collection system at the national level for each river basin and for this purpose, an agency to maintain data bank and information system shall be appointed or authorised by the Central Government.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;  
*The 15th July, 2019.*

GAJENDRA SINGH SEKHAWAT.

---

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF  
THE CONSTITUTION OF INDIA

---

**[D.O. No. 1/6198-BM(Pt. V) dated 18 July, 2019 from Shri Gajendra Singh Shekhawat,  
Minister of Jal Shakti to the Secretary General, Lok Sabha]**

The President, having been informed of the subject matter of the proposed Inter-State River Water Disputes (Amendment) Bill, 2019, recommends to Lok Sabha the consideration of the Bill under article 117(3) of the Constitution.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to substitute new sections 4, 4A, 4B, 4C, 4D and 4E for section 4 of the Inter-State River Water Disputes Act, 1956. The proposed section 4 seeks to establish a single standing Inter-State River Water Disputes Tribunal with multiple Benches, which shall initially be constituted by merging of existing five Tribunals. As existing premises with necessary furniture are already available, no new premises or furniture are required for establishing the office of the new standing Tribunal. Therefore, no non-recurring expenditure would be involved.

The new Tribunal shall consist of one Chairperson, one Vice-Chairperson and not more than six Members (three Judicial Members and three Expert Members). Further, after the new Tribunal is established, 97 sanctioned posts in the existing Tribunals are proposed to be reduced to 72 posts. Therefore, on establishment of proposed new Tribunal, the estimated annual recurring expenditure is likely to be reduced from existing Rs. 14.81 crores to Rs. 10.54 crores, thereby saving Rs. 4.27 crores per annum.

The Bill, if enacted, therefore, does not involve any other recurring or non-recurring expenditure.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill seeks to substitute clauses (a) to (f) of sub-section (2) of section 13 relating to power to make rules. The proposed amendments seeks to provide for rule making powers in respect of—

- (i) the procedure for preparation of a list of candidates and making of recommendations for selection of Chairperson, Vice-Chairperson and Members of the Tribunal;
- (ii) the other matters and the manner of providing for distribution of water during stress situations arising from shortage in the availability of water;
- (iii) the other matters of which data is to be maintained, the particulars such data shall contain and the manner in which such data shall be maintained;
- (iv) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson, Vice-Chairperson, other Members and assessors; and
- (v) the manner in which the staff of the dissolved Bench shall be dealt with.

The matters in respect of which the rules may be made are generally matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

## BILL NO. 188 OF 2019

*A Bill to repeal certain enactments and to amend certain other enactments.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title.

**1.** This Act may be called the Repealing and Amending Act, 2019.

Repeal of  
certain  
enactments.

**2.** The enactments specified in the First Schedule are hereby repealed.

Amendment  
of certain  
enactments.

**3.** The enactments specified in the Second Schedule are hereby amended to the extent and in the manner specified in the fourth column thereof.

Savings.

**4.** The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

## THE FIRST SCHEDULE

(See section 2)

## REPEALS

Year	Act No.	Short Title
1	2	3
1850	XII	The Public Accountants' Defaults Act, 1850.
1881	XI	The Municipal Taxation Act, 1881.
1892	X	The Government Management of Private Estates Act, 1892.
1956	69	The Terminal Tax on Railway Passengers Act, 1956.
1958	56	The Himachal Pradesh Legislative Assembly (Constitution and Proceedings) Validation Act, 1958.
1960	22	The Cotton Transport (Amendment) Act, 1960.
1963	1	The Hindi Sahitya Sammelan (Amendment) Act, 1963.
1963	35	The Dramatic Performances (Delhi Repeal) Act, 1963.
1964	10	The Public Employment (Requirement as to Residence) Amendment Act, 1964.
1968	49	The Delhi and Ajmer Rent Control (Nasirabad Cantonment Repeal) Act, 1968.
1973	56	The Alcock Ashdown Company Limited (Acquisition of Undertakings) Act, 1973.
1976	55	The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976.
1976	61	The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976.
1976	62	The Beedi Workers Welfare Fund Act, 1976.
1980	68	The Tea (Amendment) Act, 1980.
1981	62	The Aligarh Muslim University (Amendment) Act, 1981.
1982	63	The Road Transport Corporations (Amendment) Act, 1982.
1983	41	The Transformers and Switchgear Limited (Acquisition and Transfer of Undertakings) Act, 1983.
1988	22	The Tamil Nadu Agricultural Service Co-operative Societies (Appointment of Special Officers) Amendment Act, 1988.
1999	3	The High Denomination Bank Notes (Demonetisation) Amendment Act, 1998.
2001	39	The Motor Vehicles (Amendment) Act, 2001.
2001	48	The Registration and Other Related Laws (Amendment) Act, 2001.
2002	16	The Institutes of Technology (Amendment) Act, 2002.
2002	43	The Delhi University (Amendment) Act, 2002.
2007	3	The Dalmia Dadri Cement Limited (Acquisition and Transfer of Undertakings) Amendment Act, 2006.
2007	28	The Central Road Fund (Amendment) Act, 2007.
2009	21	The Prevention of Money-laundering (Amendment) Act, 2009.

1	2	3
2009	22	The Central Industrial Security Force (Amendment) Act, 2009.
2009	38	The Central Universities (Amendment) Act, 2009.
2010	3	The Civil Defence (Amendment) Act, 2009.
2011	6	The Repatriation of Prisoners (Amendment) Act, 2011.
2011	14	The Customs (Amendment and Validation) Act, 2011.
2012	28	The National Institutes of Technology (Amendment) Act, 2012.
2012	34	The Institutes of Technology (Amendment) Act, 2012.
2014	8	The Governors (Emoluments, Allowances and Privileges) Amendment Act, 2014.
2014	9	The National Institute of Technology, Science Education and Research (Amendment) Act, 2014.
2014	19	The Andhra Pradesh Reorganisation (Amendment) Act, 2014.
2014	20	The Telecom Regulatory Authority of India (Amendment) Act, 2014.
2014	31	The Merchant Shipping (Amendment) Act, 2014.
2014	32	The Merchant Shipping (Second Amendment) Act, 2014.
2014	39	The National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Act, 2014.
2015	2	The Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 2015.
2015	3	The Motor Vehicles (Amendment) Act, 2015.
2015	5	The Insurance Laws (Amendment) Act, 2015.
2015	10	The Mines and Minerals (Development and Regulation) Amendment Act, 2015.
2015	12	The Andhra Pradesh Reorganisation (Amendment) Act, 2015.
2015	14	The Regional Rural Banks (Amendment) Act, 2015.
2015	16	The Warehousing Corporations (Amendment) Act, 2015.
2015	21	The Companies (Amendment) Act, 2015.
2016	10	The Election Laws (Amendment) Act, 2016.
2016	13	The High Court and the Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2016.
2016	25	The Mines and Minerals (Development and Regulation) Amendment Act, 2016.
2016	42	The National Institute of Technology, Science Education and Research (Amendment) Act, 2016.
2016	45	The Central Agricultural University (Amendment) Act, 2016.
2016	48	The Taxation Laws (Second Amendment) Act, 2016.
2017	19	The National Institute of Technology, Science Education and Research (Amendment) Act, 2017.
2017	21	The Collection of Statistics (Amendment) Act, 2017.
2017	25	The Indian Institutes of Information Technology (Amendment) Act, 2017.

## THE SECOND SCHEDULE

(See section 3)

## AMENDMENTS

Year	Act No.	Short title	Amendments
1	2	3	4
1961	43	The Income-tax Act, 1961	In section 54GA, in the <i>Explanation</i> to sub-section (1), in clause (a), after the word, brackets, letters "clause (za)", the words and figure "of section 2" shall be inserted.
2017	33	The Indian Institutes of Management Act, 2017	(i) in section 3, in clause (f), for the words "'Director', means', the words "'Director" means' shall be substituted; (ii) in section 36, in sub-section (1), for the word "Ordinance", the word "Ordinances" shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

This Bill is one of those periodical measures by which enactments, which have ceased to be in force or have become obsolete or the retention whereof as separate Acts is unnecessary are repealed or by which the formal defects detected in enactments are corrected.

2. The notes which follow explain the reasons for the amendments suggested in such of those items of the Bill in respect whereof some detailed explanation is necessary.

3. Clause 4 of the Bill contains a precautionary provision in the form of saving clause which is usual to include in the Bill of this kind.

NEW DELHI;  
*The 22nd July, 2019.*

RAVI SHANKAR PRASAD.

## NOTES ON THE SECOND SCHEDULE

1. The Income-tax Act, 1961.—The amendment proposed to the Act seeks to rectify patent errors.

2. The Indian Institutes of management Act, 2017.—The amendments proposed to the Act seeks to rectify the mistakes that had inadvertently crept in the said Act.

---

## BILL NO. 189 OF 2019

*A Bill further to amend the Companies Act, 2013.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Companies (Amendment) Act, 2019.

Short title and  
commencement.

(2) The provisions of this Act, except sections 6, 7 and 8, clauses (i), (iii) and clause (iv) of section 14, sections 20 and 21, section 31, sections 33, 34 and 35, sections 37 and 38 shall be deemed to have come into force on the 2nd day of November, 2018.

(3) The provisions of sections 6, 7 and 8, clauses (i), (iii) and clause (iv) of section 14, sections 20 and 21, section 31, sections 33, 34 and 35, sections 37 and 38 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint

and different dates may be appointed for these provisions and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Amendment  
of section 2.

**2.** In section 2 of the Companies Act, 2013 (hereinafter referred to as the principal Act), in clause (41),—

(a) for the first proviso, the following provisos shall be substituted, namely:—

“Provided that where a company or body corporate, which is a holding company or a subsidiary or associate company of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Central Government may, on an application made by that company or body corporate in such form and manner as may be prescribed, allow any period as its financial year, whether or not that period is a year:

Provided further that any application pending before the Tribunal as on the date of commencement of the Companies (Amendment) Act, 2019, shall be disposed of by the Tribunal in accordance with the provisions applicable to it before such commencement.”;

(b) in the second proviso, for the words “Provided further that”, the words “Provided also that” shall be substituted.

Insertion of new  
section 10A.

**3.** After section 10 of the principal Act, the following section shall be inserted, namely:—

Commencement  
of business, etc.

“10A. (1) A company incorporated after the commencement of the Companies (Amendment) Act, 2019 and having a share capital shall not commence any business or exercise any borrowing powers unless—

(a) a declaration is filed by a director within a period of one hundred and eighty days of the date of incorporation of the company in such form and verified in such manner as may be prescribed, with the Registrar that every subscriber to the memorandum has paid the value of the shares agreed to be taken by him on the date of making of such declaration; and

(b) the company has filed with the Registrar a verification of its registered office as provided in sub-section (2) of section 12.

(2) If any default is made in complying with the requirements of this section, the company shall be liable to a penalty of fifty thousand rupees and every officer who is in default shall be liable to a penalty of one thousand rupees for each day during which such default continues but not exceeding an amount of one lakh rupees.

(3) Where no declaration has been filed with the Registrar under clause (a) of sub-section (1) within a period of one hundred and eighty days of the date of incorporation of the company and the Registrar has reasonable cause to believe that the company is not carrying on any business or operations, he may, without prejudice to the provisions of sub-section (2), initiate action for the removal of the name of the company from the register of companies under Chapter XVIII.”.

Amendment  
of section 12.

**4.** In section 12 of the principal Act, after sub-section (8), the following sub-section shall be inserted, namely:—

“(9) If the Registrar has reasonable cause to believe that the company is not carrying on any business or operations, he may cause a physical verification of the registered office of the company in such manner as may be prescribed and if any default is found to be made in complying with the requirements of sub-section (1), he may without prejudice to the provisions of sub-section (8), initiate action for the removal of the name of the company from the register of companies under Chapter XVIII.”.

**5. In section 14 of the principal Act,—**Amendment of  
section 14.

(i) in sub-section (1), for the second proviso, the following provisos shall be substituted, namely:—

“Provided further that any alteration having the effect of conversion of a public company into a private company shall not be valid unless it is approved by an order of the Central Government on an application made in such form and manner as may be prescribed:

Provided also that any application pending before the Tribunal, as on the date of commencement of the Companies (Amendment) Act, 2019, shall be disposed of by the Tribunal in accordance with the provisions applicable to it before such commencement.”;

(ii) in sub-section (2), for the word “Tribunal”, the words “Central Government” shall be substituted.

**6. In section 26 of the principal Act,—**Amendment  
of section 26.

(i) in sub-sections (4), (5) and (6), for the word “registration”, the word “filing” shall be substituted;

(ii) after sub-section (1), sub-section (7) shall be omitted.

**7. In section 29 of the principal Act,—**Amendment  
of section 29.

(i) in sub-section (1), in clause (b), the word “public” shall be omitted;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) In case of such class or classes of unlisted companies as may be prescribed, the securities shall be held or transferred only in dematerialised form in the manner laid down in the Depositories Act, 1996 and the regulations made thereunder.”.

22 of 1996.

**8. In section 35 of the principal Act, in sub-section (2), in clause (c), for the words “delivery of a copy of the prospectus for registration”, the words “filing of a copy of the prospectus with the Registrar” shall be substituted.**

Amendment of  
section 35.

**9. In section 53 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—**

Amendment  
of section 53.

“(3) Where any company fails to comply with the provisions of this section, such company and every officer who is in default shall be liable to a penalty which may extend to an amount equal to the amount raised through the issue of shares at a discount or five lakh rupees, whichever is less, and the company shall also be liable to refund all monies received with interest at the rate of twelve per cent. per annum from the date of issue of such shares to the persons to whom such shares have been issued.”.

**10. In section 64 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—**

Amendment of  
section 64.

“(2) Where any company fails to comply with the provisions of sub-section (1), such company and every officer who is in default shall be liable to a penalty of one thousand rupees for each day during which such default continues, or five lakh rupees whichever is less.”.

**11. In section 77 of the principal Act, in sub-section (1), for the first and second provisos, the following provisos shall be substituted, namely:—**

Amendment  
of section 77.

“Provided that the Registrar may, on an application by the company, allow such registration to be made—

(a) in case of charges created before the commencement of the Companies (Amendment) Act, 2019, within a period of three hundred days of such creation; or

(b) in case of charges created on or after the commencement of the Companies (Amendment) Act, 2019, within a period of sixty days of such creation,

on payment of such additional fees as may be prescribed:

Provided further that if the registration is not made within the period specified—

(a) in clause (a) to the first proviso, the registration of the charge shall be made within six months from the date of commencement of the Companies (Amendment) Act, 2019, on payment of such additional fees as may be prescribed and different fees may be prescribed for different classes of companies;

(b) in clause (b) to the first proviso, the Registrar may, on an application, allow such registration to be made within a further period of sixty days after payment of such *ad valorem* fees as may be prescribed.”.

Amendment  
of section 86.

**12.** Section 86 of the principal Act shall be numbered as sub-section (I) thereof and after sub-section (I) as so numbered, the following sub-section shall be inserted, namely:—

“(2) If any person wilfully furnishes any false or incorrect information or knowingly suppresses any material information, required to be registered in accordance with the provisions of section 77, he shall be liable for action under section 447.”.

Substitution of  
new section for  
section 87.

**13.** For section 87 of the principal Act, the following section shall be substituted, namely:—

Rectification  
by Central  
Government  
in Register of  
charges.

“87. The Central Government on being satisfied that—

(a) the omission to give intimation to the Registrar of the payment or satisfaction of a charge, within the time required under this Chapter; or

(b) the omission or misstatement of any particulars, in any filing previously made to the Registrar with respect to any charge or modification thereof or with respect to any memorandum of satisfaction or other entry made in pursuance of section 82 or section 83,

was accidental or due to inadvertence or some other sufficient cause or it is not of a nature to prejudice the position of creditors or shareholders of the company, it may, on the application of the company or any person interested and on such terms and conditions as it deems just and expedient, direct that the time for the giving of intimation of payment or satisfaction shall be extended or, as the case may require, that the omission or misstatement shall be rectified.”.

Amendment  
of section 90.

**14.** In section 90 of the principal Act,—

(i) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) Every company shall take necessary steps to identify an individual who is a significant beneficial owner in relation to the company and require him to comply with the provisions of this section.”;

(ii) for sub-section (9), the following sub-section shall be substituted, namely:—

“(9) The company or the person aggrieved by the order of the Tribunal may make an application to the Tribunal for relaxation or lifting of the restrictions placed under sub-section (8), within a period of one year from the date of such order:

Provided that if no such application has been filed within a period of one year from the date of the order under sub-section (8), such shares shall be

transferred, without any restrictions, to the authority constituted under sub-section (5) of section 125, in such manner as may be prescribed.”;

(iii) after sub-section (9), as so substituted, the following sub-section shall be inserted, namely:—

“(9A) The Central Government may make rules for the purposes of this section.”;

(iv) in sub-section (11), after the word, brackets and figure “sub-section (4)”, the words, brackets, figure and letter “or required to take necessary steps under sub-section (4A)” shall be inserted.

**15.** In section 92 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:—

Amendment  
of section 92.

“(5) If any company fails to file its annual return under sub-section (4), before the expiry of the period specified therein, such company and its every officer who is in default shall be liable to a penalty of fifty thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees.”.

**16.** In section 102 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:—

Amendment  
of section  
102.

“(5) Without prejudice to the provisions of sub-section (4), if any default is made in complying with the provisions of this section, every promoter, director, manager or other key managerial personnel of the company who is in default shall be liable to a penalty of fifty thousand rupees or five times the amount of benefit accruing to the promoter, director, manager or other key managerial personnel or any of his relatives, whichever is higher.”.

**17.** In section 105 of the principal Act, in sub-section (3), for the words “punishable with fine which may extend to five thousand rupees”, the words “liable to a penalty of five thousand rupees” shall be substituted.

Amendment  
of section  
105.

**18.** In section 117 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment  
of section  
117.

“(2) If any company fails to file the resolution or the agreement under sub-section (1) before the expiry of the period specified therein, such company shall be liable to a penalty of one lakh rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of twenty-five lakh rupees and every officer of the company who is in default including liquidator of the company, if any, shall be liable to a penalty of fifty thousand rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees.”.

**19.** In section 121 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

Amendment  
of section  
121.

“(3) If the company fails to file the report under sub-section (2) before the expiry of the period specified therein, such company shall be liable to a penalty of one lakh rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees and every officer of the company who is in default shall be liable to a penalty which shall not be less than twenty-five thousand rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of one lakh rupees.”.

Amendment  
of section  
132.

**20.** In section 132 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The National Financial Reporting Authority shall perform its functions through such divisions as may be prescribed.”;

(b) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(3A) Each division of the National Financial Reporting Authority shall be presided over by the Chairperson or a full-time Member authorised by the Chairperson.

(3B) There shall be an executive body of the National Financial Reporting Authority consisting of the Chairperson and full-time Members of such Authority for efficient discharge of its functions under sub-section (2) [other than clause (a)] and sub-section (4).”.

(c) in sub-section (4), in clause (c), for sub-clause (B), the following sub-clause shall be substituted, namely:—

“(B) debarring the member or the firm from—

I. being appointed as an auditor or internal auditor or undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate; or

II. performing any valuation as provided under section 247,

for a minimum period of six months or such higher period not exceeding ten years as may be determined by the National Financial Reporting Authority.”.

Amendment  
of section  
135.

**21.** In section 135 of the principal Act,—

(a) in sub-section (5), —

(i) after the words “three immediately preceding financial years,” the words “or where the company has not completed the period of three financial years since its incorporation, during such immediately preceding financial years,” shall be inserted;

(ii) in the second proviso, after the words “reasons for not spending the amount” occurring at the end, the words, brackets, figure and letters “and, unless the unspent amount relates to any ongoing project referred to in sub-section (6), transfer such unspent amount to a Fund specified in Schedule VII, within a period of six months of the expiry of the financial year” shall be inserted;

(b) after sub-section (5), the following sub-sections shall be inserted, namely:—

“(6) Any amount remaining unspent under sub-section (5), pursuant to any ongoing project, fulfilling such conditions as may be prescribed, undertaken by a company in pursuance of its Corporate Social Responsibility Policy, shall be transferred by the company within a period of thirty days from the end of the financial year to a special account to be opened by the company in that behalf for that financial year in any scheduled bank to be called the Unspent Corporate Social Responsibility Account, and such amount shall be spent by the company in pursuance of its obligation towards the Corporate Social Responsibility Policy within a period of three financial years from the date of such transfer, failing which, the company shall transfer the same to a Fund specified in Schedule VII, within a period of thirty days from the date of completion of the third financial year.

(7) If a company contravenes the provisions of sub-section (5) or sub-section (6), the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to twenty-five lakh rupees

and every officer of such company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

(8) The Central Government may give such general or special directions to a company or class of companies as it considers necessary to ensure compliance of provisions of this section and such company or class of companies shall comply with such directions.”.

**22.** In section 137 of the principal Act, in sub-section (3),—

Amendment  
of section  
137.

(a) for the words “punishable with fine”, the words “liable to a penalty” shall be substituted;

(b) for the portion beginning with the words “punishable with imprisonment”, and ending with the words “five lakh rupees or with both”, the words “shall be liable to a penalty of one lakh rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees” shall be substituted.

**23.** In section 140 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

Amendment  
of section  
140.

“(3) If the auditor does not comply with the provisions of sub-section (2), he or it shall be liable to a penalty of fifty thousand rupees or an amount equal to the remuneration of the auditor, whichever is less, and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees.”.

**24.** In section 157 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment  
of section  
157.

“(2) If any company fails to furnish the Director Identification Number under sub-section (1), such company shall be liable to a penalty of twenty-five thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of one lakh rupees, and every officer of the company who is in default shall be liable to a penalty of not less than twenty-five thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of one lakh rupees.”.

**25.** For section 159 of the principal Act, the following section shall be substituted, namely:—

Substitution of  
new section for  
section 159.

“159. If any individual or director of a company makes any default in complying with any of the provisions of section 152, section 155 and section 156, such individual or director of the company shall be liable to a penalty which may extend to fifty thousand rupees and where the default is a continuing one, with a further penalty which may extend to five hundred rupees for each day after the first during which such default continues.”.

Penalty for  
default of  
certain  
provisions.

**26.** In section 164 of the principal Act, in sub-section (1), after clause (h), the following clause shall be inserted, namely:—

Amendment  
of section  
164.

“(i) he has not complied with the provisions of sub-section (1) of section 165.”.

**27.** In section 165 of the principal Act, in sub-section (6), for the portion beginning with the words “punishable with fine” and ending with the words “contravention continues”, the words “liable to a penalty of five thousand rupees for each day after the first during which such contravention continues” shall be substituted.

Amendment  
of section  
165.

Amendment  
of section  
191.

**28.** In section 191 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) If a director of the company makes any default in complying with the provisions of this section, such director shall be liable to a penalty of one lakh rupees.”.

Amendment  
of section  
197.

**29.** In section 197 of the principal Act,—

(a) sub-section (7) shall be omitted;

(b) for sub-section (15), the following sub-section shall be substituted, namely:—

“(15) If any person makes any default in complying with the provisions of this section, he shall be liable to a penalty of one lakh rupees and where any default has been made by a company, the company shall be liable to a penalty of five lakh rupees.”.

Amendment  
of section  
203.

**30.** In section 203 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) If any company makes any default in complying with the provisions of this section, such company shall be liable to a penalty of five lakh rupees and every director and key managerial personnel of the company who is in default shall be liable to a penalty of fifty thousand rupees and where the default is a continuing one, with a further penalty of one thousand rupees for each day after the first during which such default continues but not exceeding five lakh rupees.”.

Amendment  
of section  
212.

**31.** In section 212 of the principal Act,—

(a) in sub-section (8), for the words “If the Director, Additional Director or Assistant Director”, the words “If any officer not below the rank of Assistant Director” shall be substituted;

(b) in sub-section (9), for the portion beginning with the words “The Director” and ending with the word, brackets and figure “sub-section (8)”, the words, brackets and figure “The officer authorised under sub-section (8) shall, immediately after arrest of such person under such sub-section” shall be substituted;

(c) in sub-section (10)—

(i) for the words “Judicial Magistrate”, the words “Special Court or Judicial Magistrate” shall be substituted;

(ii) in the proviso, for the words “Magistrate’s court”, the words “Special Court or Magistrate’s court” shall be substituted;

(d) after sub-section (14), the following sub-section shall be inserted, namely:—

“(14A) Where the report under sub-section (11) or sub-section (12) states that fraud has taken place in a company and due to such fraud any director, key managerial personnel, other officer of the company or any other person or entity, has taken undue advantage or benefit, whether in the form of any asset, property or cash or in any other manner, the Central Government may file an application before the Tribunal for appropriate orders with regard to disgorgement of such asset, property or cash and also for holding such director, key managerial personnel, other officer or any other person liable personally without any limitation of liability.”.

Amendment  
of section  
238.

**32.** In section 238 of the principal Act, in sub-section (3), for the words “punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees”, the words “liable to a penalty of one lakh rupees” shall be substituted.

**33.** In section 241 of the principal Act,—Amendment  
of section  
241.

(a) in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that the applications under this sub-section, in respect of such company or class of companies, as may be prescribed, shall be made before the Principal Bench of the Tribunal which shall be dealt with by such Bench.”;

(b) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) Where in the opinion of the Central Government there exist circumstances suggesting that—

(a) any person concerned in the conduct and management of the affairs of a company is or has been in connection therewith guilty of fraud, misfeasance, persistent negligence or default in carrying out his obligations and functions under the law or of breach of trust;

(b) the business of a company is not or has not been conducted and managed by such person in accordance with sound business principles or prudent commercial practices;

(c) a company is or has been conducted and managed by such person in a manner which is likely to cause, or has caused, serious injury or damage to the interest of the trade, industry or business to which such company pertains; or

(d) the business of a company is or has been conducted and managed by such person with intent to defraud its creditors, members or any other person or otherwise for a fraudulent or unlawful purpose or in a manner prejudicial to public interest,

the Central Government may initiate a case against such person and refer the same to the Tribunal with a request that the Tribunal may inquire into the case and record a decision as to whether or not such person is a fit and proper person to hold the office of director or any other office connected with the conduct and management of any company.

(4) The person against whom a case is referred to the Tribunal under sub-section (3), shall be joined as a respondent to the application.

(5) Every application under sub-section (3)—

(a) shall contain a concise statement of such circumstances and materials as the Central Government may consider necessary for the purposes of the inquiry; and

(b) shall be signed and verified in the manner laid down in the Code of Civil Procedure, 1908, for the signature and verification of a plaint in a suit by the Central Government.”.

5 of 1908.

**34.** In section 242 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—Amendment  
of section  
242.

“(4A) At the conclusion of the hearing of the case in respect of sub-section (3) of section 241, the Tribunal shall record its decision stating therein specifically as to whether or not the respondent is a fit and proper person to hold the office of director or any other office connected with the conduct and management of any company.”.

Amendment  
of section  
243.

**35.** In section 243 of the principal Act,—

(a) after sub-section (I), the following sub-sections shall be inserted, namely:—

“(1A) The person who is not a fit and proper person pursuant to sub-section (4A) of section 242 shall not hold the office of a director or any other office connected with the conduct and management of the affairs of any company for a period of five years from the date of the said decision:

Provided that the Central Government may, with the leave of the Tribunal, permit such person to hold any such office before the expiry of the said period of five years.

(1B) Notwithstanding anything contained in any other provision of this Act, or any other law for the time being in force, or any contract, memorandum or articles, on the removal of a person from the office of a director or any other office connected with the conduct and management of the affairs of the company, that person shall not be entitled to, or be paid, any compensation for the loss or termination of office.”;

(b) in sub-section (2), after the word, brackets and figure “sub-section (I)”, the words, brackets, figure and letter “or sub-section (1A)” shall be inserted.

Amendment  
of section  
248.

**36.** In section 248 of the principal Act, in sub-section (I),—

(a) in clause (c), for the word and figures “section 455,”, the words and figures “section 455; or” shall be substituted;

(b) after clause (c) and before the long line, the following clauses shall be inserted, namely:—

“(d) the subscribers to the memorandum have not paid the subscription which they had undertaken to pay at the time of incorporation of a company and a declaration to this effect has not been filed within one hundred and eighty days of its incorporation under sub-section (I) of section 10A; or

(e) the company is not carrying on any business or operations, as revealed after the physical verification carried out under sub-section (9) of section 12.”.

Amendment  
of section  
272.

**37.** In section 272 of the principal Act, in sub-section (3), for the words, brackets and letter “or clause (e) of that sub-section”, the words “of that section” shall be substituted.

Amendment  
of section  
398.

**38.** In section 398 of the principal Act, in sub-section (I), in clause (f), the word “prospectus,” shall be omitted.

Amendment  
of section  
441.

**39.** In section 441 of the principal Act,—

(a) in sub-section (I), in clause (b), for the words “does not exceed five lakh rupees”, the words “does not exceed twenty-five lakh rupees” shall be substituted;

(b) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence which is punishable under this Act with imprisonment only or with imprisonment and also with fine shall not be compoundable.”.

2 of 1974.

Amendment  
of section  
446B.

**40.** In section 446B of the principal Act, for the portion beginning with the words “punishable with fine” and ending with the words “specified in such sections”, the words “liable to a penalty which shall not be more than one-half of the penalty specified in such sections” shall be substituted.

Amendment  
of section  
447.

**41.** In section 447 of the principal Act, in the second proviso, for the words “twenty lakh rupees”, the words “fifty lakh rupees” shall be substituted.

**42.** In section 454 of the principal Act,—

Amendment  
of section  
454.

(i) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The adjudicating officer may, by an order—

(a) impose the penalty on the company, the officer who is in default, or any other person, as the case may be, stating therein any non-compliance or default under the relevant provisions of this Act; and

(b) direct such company, or officer who is in default, or any other person, as the case may be, to rectify the default, wherever he considers fit.”;

(ii) in sub-section (4), for the words “such company and the officer who is in default”, the words “such company, the officer who is in default or any other person” shall be substituted;

(iii) in sub-section (8),—

(a) in clause (i), for the words “does not pay the penalty imposed by the adjudicating officer or the Regional Director”, the words, brackets and figures “fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be,” shall be substituted;

(b) in clause (ii)—

(i) for the words “Where an officer of a company”, the words “Where an officer of a company or any other person” shall be substituted;

(ii) for the words “does not pay the penalty”, the words, brackets and figures “fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be,” shall be substituted.

**43.** After section 454 of the principal Act, the following section shall be inserted, namely:—

Insertion of  
new section  
454A.

“454A. Where a company or an officer of a company or any other person having already been subjected to penalty for default under any provisions of this Act, again commits such default within a period of three years from the date of order imposing such penalty passed by the adjudicating officer or the Regional Director, as the case may be, it or he shall be liable for the second or subsequent defaults for an amount equal to twice the amount of penalty provided for such default under the relevant provisions of this Act.”.

Penalty for  
repeated  
default.

Ord. 6 of 2019.

**44.** (1) The Companies (Amendment) Second Ordinance, 2019 is hereby repealed.

Repeal and  
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

## STATEMENT OF OBJECTS AND REASONS

The Companies Act, 2013 (the Act) was enacted with a view to consolidate and amend the law relating to companies. The Act introduced significant changes relating to disclosures to stakeholders, accountability of directors, auditors and key managerial personnel, investor protection and corporate governance.

2. In order to review the existing provisions of the Act dealing with the offences and to make recommendations to promote better corporate compliance, the Government of India constituted a Committee in July, 2018 and the said Committee, after taking the views of several stakeholders, submitted its Report in August, 2018. The Committee recommended that the existing rigour of the law should continue for serious offences, whereas the lapses that are essentially technical or procedural in nature may be shifted to in-house adjudication process.

3. The recommendations made by the Committee were examined by the Government and it was noted that the changes in the Companies Act, 2013 suggested by the said Committee would fill critical gaps in the corporate governance and compliance framework as enshrined in the said Act while simultaneously extending greater ease of doing business to law abiding corporates. Accordingly, it was proposed to amend certain provisions of the Companies Act, 2013. However, in view of the urgency, the Companies (Amendment) Ordinance, 2018 was promulgated on 2nd day of November, 2018. To replace the aforesaid Ordinance, a Bill, namely, the Companies (Amendment) Bill, 2018 was introduced in the Lok Sabha and passed in the said House on the 4th day of January, 2019. However, the said Bill could not be taken up for consideration in the Rajya Sabha.

4. In order to give continued effect to the Companies (Amendment) Ordinance, 2018, the President promulgated the Companies (Amendment) Ordinance, 2019 and the Companies (Amendment) Second Ordinance, 2019 on the 12th day of January, 2019 and the 21st day of February, 2019 respectively. It is now proposed to bring the Companies (Amendment) Bill, 2019 to replace the Companies (Amendment) Second Ordinance, 2019 with certain other amendments which are considered necessary to ensure more accountability and better enforcement to strengthen the corporate governance norms and compliance management in corporate sector.

5. The Companies (Amendment) Bill, 2019 which seeks to replace the Companies (Amendment) Second Ordinance, 2019 with certain additional amendments, *inter alia*, provides for the following, namely:—

(i) to amend clause (41) of section 2 of the Companies Act, 2013 so as to empower the Central Government to allow certain companies to have a different financial year instead of as determined by the Tribunal;

(ii) to amend section 12 of the Act empowering the Registrar to initiate action for the removal of name of the company from register of companies, if the company is not carrying on any business or operation in accordance with the provisions of the Act;

(iii) to amend sixteen sections of the Act so as to modify the punishment as provided in the said sections from fine to monetary penalties to lessen the burden upon the Special Courts;

(iv) to amend section 132 of the Act to enable the National Financial Reporting Authority to perform its functions through divisions and the Executive Body;

(v) to amend section 135 of the Act so as to bring clarity to—

(a) carry forward the unspent corporate social responsibility amount, to a special account to be spent within three financial years and transfer thereafter to the Fund specified in Schedule VII, in case of an ongoing project; and

(b) transfer the unspent amount to the Fund specified under Schedule VII, in other cases;

(vi) to amend sections 241, 242 and 243 of the Act so as to empower the Central Government to approach Tribunal to issue an order against the persons who are connected with the conduct and management of the company as not fit and proper persons for the acts committed by them which amount to mismanagement; and

(vii) to amend section 441 of the Act so as to enhance the jurisdiction of the Regional Director for compounding the offences.

6. As the Parliament was not in session and immediate action was required to be taken, the Companies (Amendment) Second Ordinance, 2019 was promulgated by the President on the 21st day of February, 2019.

7. The Notes on Clauses explain in detail the various provisions of the Bill.

8. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;  
*The 19th July, 2019.*

NIRMALA SITHARAMAN.

*Notes on clauses*

*Clause 1* of the Bill provides for the short title and commencement of the proposed Legislation.

*Clause 2* of the Bill seeks to amend clause (41) of section 2 of the Companies Act, 2013 (the Act) so as to enable the relevant companies to follow different financial year with the approval of the Central Government, instead of taking approval of the Tribunal.

*Clause 3* of the Bill seeks to insert a new section 10A relating to commencement of business, etc., to provide that a company having a share capital shall not commence business or exercise any borrowing powers unless a declaration is filed with the Registrar by a director that every subscriber to the memorandum has paid the value of shares and the company has filed with the Registrar the verification of its registered office. The said clause further provides that non-compliance with filing of declaration may result into action by Registrar under Chapter XVIII.

*Clause 4* of the Bill seeks to insert a new sub-section (9) in section 12 of the Act to provide that the Registrar may cause a physical verification of the registered office of the company if he has reasonable cause to believe that company is not carrying on any business or operations as specified and to provide consequent action thereof.

*Clause 5* of the Bill seeks to amend the second proviso to sub-section (1) of section 14 of the Act to provide that any alteration having the effect of conversion of a public company into a private company shall not be valid unless it is approved by an order of the Central Government on an application made in such form and manner as may be prescribed. Earlier this approval was obtained from the Tribunal.

*Clause 6* of the Bill seeks to amend sub-sections (4), (5) and (6) of section 26 of the Act so as to substitute the requirement of registration of prospectus with filing of prospectus with the Registrar.

*Clause 7* of the Bill seeks to amend sub-section (1) of section 29 of the Act and to insert sub-section (1A) therein to provide for the requirement of issuance, holding or transferring of securities in dematerialised form for any class of unlisted companies, as may be prescribed by the Central Government.

*Clause 8* of the Bill seeks to amend clause (c) in sub-section (2) of section 35 of the Act to provide that the copy of the prospectus shall be filed with the Registrar instead of delivery for registration.

*Clause 9* of the Bill seeks to amend sub-section (3) of section 53 of the Act to provide for monetary penalty and refund of monies in case of failure to comply with the provision of the said section.

*Clause 10* of the Bill seeks to amend sub-section (2) of section 64 of the Act to provide for monetary penalty for company and its officers in default in case of failure to comply with provision of the said section.

*Clause 11* of the Bill seeks to amend the first and second proviso of sub-section (1) of section 77 of the Act to provide that the Registrar may, on the application made by a company, allow registration of charge, in case of charges created before the commencement of the Companies (Amendment) Act, 2019, within a period of three hundred days or in case of charges created after the commencement of the said Act within sixty days, on payment of additional fees. The additional period within which the charges are required to be registered is also provided.

*Clause 12* of the Bill seeks to insert sub-section (2) in section 86 of the Act to provide that any person who wilfully furnishes any false or incorrect information or knowingly

suppresses any material information, required to be registered in accordance with the provisions of section 77, shall be liable for action under section 447.

*Clause 13* of the Bill seeks to substitute section 87 of the Act to empower the Central Government to extend time or allow rectification, if it is satisfied that omission to give intimation to the Registrar of the payment or satisfaction of a charge, within the time required under Chapter VI; or the omission or misstatement of any particulars, in any previous filing with respect to any such charge or modification thereof or with respect to any memorandum of satisfaction or other entry made in pursuance of section 82 or section 83 was accidental or was due to inadvertence.

*Clause 14* of the Bill seeks to amend section 90 of the Act by inserting sub-section (4A) to provide that the company shall take necessary steps to identify an individual who is a significant beneficial owner. Failure to take necessary steps shall lead to action under sub-section (11). It also seeks to amend sub-section (9) of section 90 of the Act to provide that the company or the person aggrieved by the order of the Tribunal may make an application to the Tribunal for relaxation or lifting of the restrictions placed under sub-section (8), within a period of one year from the date of such order and if no such application is filed, such shares shall be transferred without any restrictions to Investor Education and Protection Fund Authority. It also seeks to insert sub-section (9A) to provide the power to the Central Government to make rules for the purposes of this section.

*Clause 15* of the Bill seeks to amend sub-section (5) of section 92 of the Act to provide that if any company fails to file its annual return under sub-section (4), before the expiry of the period specified therein, such company and its every officer who is in default shall be liable to monetary penalty as specified in the provision.

*Clause 16* of the Bill seeks to amend sub-section (5) of section 102 of the Act to provide that in case of any default made in complying with the provisions of such section, every promoter, director, manager or other key managerial personnel of the company who is in default shall be liable to monetary penalty as specified in the provision.

*Clause 17* of the Bill seeks to amend sub-section (3) of section 105 of the Act to provide that for any default under sub-section (2) of said section, the officer in default shall be liable for monetary penalty as specified in sub-section (3).

*Clause 18* of the Bill seeks to amend sub-section (2) of section 117 of the Act to provide that for failure in filing a copy of every resolution or an agreement as per sub-section (1) of said section, the company and its officer in default shall be liable for monetary penalty as specified in sub-section (2).

*Clause 19* of the Bill seeks to amend sub-section (3) of section 121 of the Act to provide for liability to pay monetary penalty for not filing with the Registrar a copy of report within the stipulated period as per sub-section (2) of said section.

*Clause 20* of the Bill seeks to amend section 132 of the Act to provide that the National Financial Reporting Authority shall perform its functions through such divisions as may be prescribed by the Central Government. It also seeks to provide that there shall be an executive body of the National Financial Reporting Authority consisting of the Chairperson and full-time Members for efficient discharge of its certain functions. The clause also seeks to amend sub-clause (B) of clause (c) of sub-section (4) of section 132 with respect to the extent of debarring of the member or firm by National Financial Reporting Authority in case professional or other misconduct is proved.

*Clause 21* of the Bill seeks to amend sub-section (5) of section 135 and insert sub-sections (6), (7) and (8) in the said section of the Act to provide, *inter alia* for, (a) carrying forward the unspent amounts, to a special account to be spent within three financial years and transfer thereafter to the Fund specified in Schedule VII, in case of an ongoing

project; and (b) transferring the unspent amounts to the Fund specified under Schedule VII, in other cases.

*Clause 22* of the Bill seeks to amend sub-section (3) of section 137 of the Act to provide for payment of monetary penalty in case of failure to file a copy of financial statements with the Registrar.

*Clause 23* of the Bill seeks to amend sub-section (3) of section 140 of the Act to provide for payment of monetary penalty of fifty thousand rupees or an amount equal to the remuneration of the auditor whichever is less and further penalty for continuous failure, if the auditor does not comply with sub-section (2) of the said section.

*Clause 24* of the Bill seeks to amend sub-section (2) of section 157 of the Act to provide for payment of monetary penalty in case there is failure to furnish Director Identification Number pursuant to sub-section (1) of the said section.

*Clause 25* of the Bill seeks to amend section 159 of the Act to provide for payment of monetary penalty if any individual or director of a company makes default in complying with sections 152, 155 and 156 of the Act.

*Clause 26* of the Bill seeks to insert clause (i) in sub-section (1) of section 164 of the Act to provide disqualification to become a director if an individual has not complied with the provisions of sub-section (1) of section 165 of the Act.

*Clause 27* of the Bill seeks to amend sub-section (6) of section 165 of the Act to provide for payment of monetary penalty in case a person accepts an appointment as a director in contravention of sub-section (1) of the said section.

*Clause 28* of the Bill seeks to amend sub-section (5) of section 191 of the Act to provide for payment of monetary penalty if a director makes default in complying with the said section.

*Clause 29* of the Bill seeks to omit sub-section (7) and to amend sub-section (15) of section 197 of the Act to provide for payment of monetary penalty by any person or the company in case of default.

*Clause 30* of the Bill seeks to amend sub-section (5) of section 203 of the Act to provide for payment of monetary penalty by any company and director and key managerial personnel who is in default in complying with the said section.

*Clause 31* of the Bill seeks to amend section 212 of the Act to provide that any officer not below the rank of Assistant Director of Serious Fraud Investigation Office (SFIO), if so authorised, may arrest any person in accordance with the provisions of this section. It also seeks to provide that the person so arrested may be taken to a Special Court or Judicial Magistrate or Metropolitan Magistrate within twenty-four hours of his arrest. Further, the clause also seeks to provide that where an investigation report submitted by SFIO states that a fraud has taken place and any director, key managerial personnel or officer has taken undue advantage or benefit, then the Central Government may file an application before Tribunal with regard to disgorgement and such director, key managerial personnel or officer may be held personally liable without any limitation of liability.

*Clause 32* of the Bill seeks to amend sub-section (3) of section 238 of the Act to provide for payment of monetary penalty for the director who issues a circular which has not been presented for registration and registered as per sub-section (1) of the said section.

*Clause 33* of the Bill seeks to amend sub-section (2) of section 241 of the Act by inserting a proviso to empower the Central Government to prescribe such company or class of companies in respect of which, applications under such sub-section, shall be made before the Principal Bench of the Tribunal and shall be dealt with by such Bench. It also seeks to provide that in certain circumstances, the Central Government may refer the matter and request to the Tribunal to inquire into the case and record a decision about whether the person is a fit and proper person to hold the office of director or any other office connected with the conduct and management of any company.

*Clause 34* of the Bill seeks to amend section 242 of the Act to provide that at the conclusion of the hearing of the case in respect of section 241, the Tribunal shall record its decision stating specifically as to whether or not the respondent is a fit and proper person to hold the office of director or any other office connected with the conduct and management of any company.

*Clause 35* of the Bill seeks to amend section 243 of the Act to provide that the person who is not a fit and proper person pursuant to section 242 shall not hold the office of a director or any other office connected with the conduct and management of the affairs of any company for a period of five years from the date of the relevant decision of the Tribunal. It also seeks to provide that the Central Government may, with the leave of the Tribunal, permit such person to hold any such office before the expiry of the said period of five years. The clause also seeks to provide that the person so removed from the office of a director or any other office connected with the conduct and management of the affairs of the company shall not be entitled to, or be paid, any compensation for the loss or termination of office.

*Clause 36* of the Bill seeks to amend sub-section (1) of section 248 of the Act to insert new clauses (d) and (e) to provide that in case the subscribers to the memorandum have not paid the subscription which they had undertaken to pay and declaration under section 10A has not been filed or where the company is not carrying on any business or operation as revealed after the physical verification, the Registrar shall send notice to such companies and its directors informing them of his intention to remove the name of the company from the register of companies.

*Clause 37* of the Bill seeks to amend sub-section (3) of section 272 of the Act to allow the Registrar to present a petition of winding up on the ground that it is just and equitable to do so under clause (e) of section 271.

*Clause 38* of the Bill seeks to amend clause (f) of sub-section (1) of section 398 of the Act by omitting the word "prospectus" as it would not be required to be registered by the Registrar.

*Clause 39* of the Bill seeks to amend clause (b) of sub-section (1) of section 441 of the Act to increase the threshold of maximum amount of fine that does not exceed twenty-five lakh rupees for compounding by the Regional Directors.

*Clause 40* of the Bill seeks to amend section 446B of the Act to provide for payment of reduced amount of monetary penalty in case of default by One Person Companies or small companies.

*Clause 41* of the Bill seeks to amend section 447 of the Act to enhance the amount of fine from "twenty lakh rupees" to "fifty lakh rupees".

*Clause 42* of the Bill seeks to amend sub-sections (3) and (8) of section 454 of the Act to provide that adjudicating officer may also direct the company or officer in default or other person to rectify default, wherever he considers fit.

*Clause 43* of the Bill seeks to insert a new section 454A relating to monetary penalty for repeated default, which is twice the amount of penalty provided for such defaults under the relevant provisions of this Act.

*Clause 44* of the Bill seeks to repeal the Companies (Amendment) Second Ordinance, 2019 and to save the actions done during the course of the period of Ordinance.

---

---

FINANCIAL MEMORANDUM

The provisions of the Companies (Amendment) Bill, 2019 will not involve any expenditure of recurring or non-recurring nature, on its enactment.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (a) of clause 2 of the Bill confers power upon the Central Government to prescribe, under first proviso to clause (41) of section 2 of the Act, the form and manner in which application shall be made by the relevant company or body corporate to the Central Government to allow any period as financial year.

*Clause 3* empowers the Central Government to prescribe, under clause (a) of sub-section (1) of section 10A, the form and manner in which a declaration is to be filed and verified by a director to the effect that every subscriber to the memorandum has paid the value of the shares agreed to be taken by him on the date of making such declaration.

*Clause 4* empowers the Central Government to prescribe, under sub-section (9) of section 12 of the Act, the manner in which the Registrar may cause a physical verification of the registered office of the company if he has reasonable cause to believe that the company is not carrying on any business or operations.

*Clause 5* empowers the Central Government to prescribe, under the second proviso to sub-section (1) of section 14 of the Act, the form and manner in which an application is to be made to the Central Government for seeking its approval for any alteration of articles having the effect of conversion of a public company into a private company.

*Clause 7* empowers the Central Government to prescribe, under sub-section (1A) of section 29, the class or classes of unlisted companies where securities shall be held or transferred only in dematerialised form.

*Clause 11* empowers the Central Government to prescribe, under sub-section (1) of section 77 of the Act, (a) the additional fees which a company shall pay while making an application to the Registrar for registration of charge after the expiry of original period of filing; (b) additional fees and different fees for different class of companies; and the *ad valorem* fees.

*Clause 14* empowers the Central Government, under proviso to sub-section (9) of section 90 of the Act, to prescribe the manner in which the shares shall be transferred to the authority constituted under sub-section (5) of section 125 of the Act, if no application has been filed within a period of one year from the date of the order referred to in sub-section (8). The clause also seeks to insert a new sub-section (9A) to empower the Central Government to prescribe rules for the purpose of section 90 of the Act.

*Clause 20* empowers the Central Government to prescribe, under sub-section (1A) of section 132, such divisions through which National Financial Reporting Authority shall perform its functions.

*Clause 21* empowers the Central Government to prescribe, under sub-section (6) of section 135, the conditions which need to be fulfilled w.r.t. the ongoing project in respect of which unspent CSR amounts may be transferred to the special account.

*Clause 33* empowers the Central Government to prescribe, under proviso to sub-section (2) of section 241, such company or class of companies in respect of which applications shall be made before the Principal Bench of the Tribunal.

2. The matters in respect of which the said rules may be made are matters of procedure and administrative detail, and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

SNEHLATA SHRIVASTAVA  
*Secretary-General*